

A2001-31
I-K-08

John Silvasi

To: Joann Allman/RTP/USEPA/US@EPA

04/07/03 09:49 AM

cc:

Subject: from OMB: additional comments

John J. Silvasi
Environmental Engineer
Ozone Policy and Strategies Group (C539-02)
Office of Air Quality Planning and Standards
U.S. Environmental Protection Agency
Research Triangle Park, NC 27711
919-541-5666 (v); 919-541-0824 (fax)
silvasi.john@epa.gov

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Amy L. Farrell@omb.eop.gov

To: John Silvasi/RTP/USEPA/US@EPA

cc: Arthur G. Fraas@omb.eop.gov

02/21/03 09:06 PM

Subject: additional comments

John -
I've copied comments from DOE below. Please note that these are staff comments.
DOE will let us know if they need to revise them based on any further input they get internally.
Thanks,
Amy

General.

1. Just received the material sent the afternoon of 2/13 and have not reviewed.
2. The lack of an accompanying PM2.5 implementation makes it difficult to evaluate the 8-hr O3 strategy as a stand-alone strategy, since the coordination of the 2 (and less importantly with the regional haze strategy) is essential to provide maximum certainty and efficiency to the regulated community. It is just this certainty/coordination that Clear Skies would provide. An adequate evaluation of this draft NoPR requires at least a simultaneous evaluation of EPA's putative PM2.5 scheme.
3. The scheme preferred, with all its "suboptions" and possible variations? some only mentioned as "requesting comment on" without any real discussion? are so complex that it is difficult to evaluate the entire scheme without a flow chart. Such a visual would aid interagency review, and would likely suggest a clearer way to present the proposal.
4. The complexity of the preferred classification scheme contradicts the goal of providing states with certain direction prior to designations.
5. Transport issues necessarily permeate the text, and require further review.

6. The detailed description of (proposed for comment ??) Clean Air Development Communities in this notice adds to the confusion. Is CADC better in a stand-alone notice for comment, especially since EPA is going forward with it in specific cases ?

Specific

Pg 1, SUMMARY, 3rd sent. With so many options/suboptions, the proposed rule/preamble does not provide certainty prior to issuance of the final rule. Shouldn't this say something like "The effect of the proposed rule is to provide direction to States in developing federally approvable SIPs to implement the 8-hr std."

Pg 2, parenthetical "5)": This will have to be consistent with whatever is agreed to on "softening" the transport issue in general.

Pg 13, 1st para, and Appendix A: Strike the paragraph and Appendix A as gratuitous, pre-decisional, irrelevant to the NoPR. This is, after all, an implementing strategy for a standard set in 1997, not a strategy for whatever NAAQS is concluded in the next round of O3 review, during which these studies will presumably be considered. The ozone NAAQS

review is going on now, with a 1st draft of the criteria document not expected until at least Summer 2003 (after the proposed strategy); the CD review will not be completed before August 2004 ? well after the 8-hr O3

strategy is finalized and designations are made for the 8-hr std.

pg 22, 1st para: I understand that new "softened" text on regional transport is

forthcoming. (See above) paragraph and the following section "D" will

need to be reviewed after this "softened" text is presented.

Pg 27, section B: The following section is weak. It gives technical background

for the original implementation approach and then only for the transport provisions [going back to OTAG, for goshsakes] This could be handled

with just a brief mention of OTAG and then using just the NOx SIP call (which indeed cites OTAG) to provide technical support. May wish to consider

more technical discussion of local vs. regional controls.

Pg 39 and following, both options: Has EPA done any statistical evaluation relative to the different "forms" of the 1-hr and the 8-hr std, and how

the proposed translation (x% above the level, regardless of form) is appropriate? Or with using "design value," is this irrelevant?

Pg 47, 1st full para, 1st sent: Do you mean to say the one-hour design value at the time of the 8-hr designation? It doesn't make sense as stated.

Pg 51, subsection (ii): Caution here: Is this section in effect announcing (sort of an ANPR) a PM2.5 implementation strategy without having a complete interagency review of that strategy? While the "transport"

classification and associated possible flexibility may be appropriate, using EPA's internal consideration of options for a possible PM2.5 strategy to support this option may not be.

Pg 52 and following text related to subsection "5.": The discussion of the placement in, and treatment of, "gap" areas is very unclear, and does not

(generally) provide the necessary strong rationale to support the imposition of some subpart 2 prescriptions to these areas.

Pg 54, last sentence: May better be said "... is one alternative to unnecessarily imposing new local controls."

Pg 57, 1st para: The request for comments on equitable treatment of "gap" and non-gap areas is indicative of the weak presentation of rationale for the approach proposed. If the approach survives to proposal, this will need work.

Pg 57 and following (subsection "6"): The "incentive feature" and its usefulness

are difficult to evaluate without a clear understanding of how all the prescriptions of Subpart 2 (with the many adaptations discussed throughout the preamble) would be imposed on an area choosing to go that route.

Pg 70 and following: The discussion of transitioning from the 1-hr to the 8-hr std is unclear, compounded by discussions of conformity, anti-backsliding, and options on "applicable requirements," etc.

Pg 89-90: What is the real effect each of the options? Is one preferred, and why?

Pg 102 and following, and throughout: Is it disingenuous for the agency to minimize/project the impact of any particular option by using its own, unspecified definition of nonattainment "areas" as they are effected by a certain option? EPA staff has acknowledged that they use wider areas than some states have proposed

Pg 107, 1st sent: Some text is missing ? typo? Should "year" be "area?"

Pg 108 and following: The statements on what EPA will do before December 2003 regarding transport and the 8-hr std I assume are to be softened, per earlier political meeting.

Pg 144 and following: The 2006 deadline for ROP plans for moderate areas will not necessarily permit coordination of these with the RFP plans for PM2.5, which would be due with the first SIP (3 yrs after designation). See general comments.

Pg 147: Might be helpful to mention credit-ability of title 3 HAPs reductions of VOCs?

Pg 154 and following: Imposing the greater than RFP burden on upwind nonattainment areas, without any section 126 proceeding/finding, is suspect. Can this just be accomplished by stating the general duty in section 110 to prevent significant contribution downwind? Where all the same state, the general duty to demonstrate attainment should suffice.

Pg 170 and following: Good that previous RACT SIP will be accepted.